

**U.S. Environmental Protection Agency
Oregon Department of Agriculture and Oregon OSHA**

**End-of-Year Review Report for the
Fiscal Year 2012
Pesticide Cooperative Agreements**

February 26, 2013

Summary

This end-of-year evaluation report covers the review of the pesticide programs of two Oregon state agencies: the Oregon Department of Agriculture (ODA) and the Oregon Occupational Safety and Health Administration (OSHA). This summary provides an overview of major efforts, accomplishments, and suggestions for improvement.

In Fiscal Year (FY) 2012, ODA implemented a solid enforcement program. ODA significantly improved its pesticide enforcement program by implementing new policies and procedures to address EPA's recommendations during EPA's 2010 and 2011 end-of-year reviews. ODA significantly increased the number of environmental samples collected, which strengthened their enforcement cases. EPA found that inspections conducted were thorough, and enforcement actions issued were consistent with the enforcement response policy. The Department continued to exceed the number of inspections projected at the beginning of the year. EPA recommends minor program improvements that can be made, ranging from developing a Standard Operating Procedure to address finalizing inspection reports and administrative records to establishing a time frame that laboratory reports be produced.

Oregon OSHA continued to implement an excellent Worker Protection Standard (WPS) enforcement program. The compliance officers were well-trained to do their work, and they conducted detailed and thorough inspections. Checklists were used during interviews with handlers and workers, and Letters of Corrective Action were used to ensure that violators came back into compliance. The enforcement actions issued were timely and consistent with the enforcement response policy.

ODA implemented an excellent certification and training program that addressed the important issues and the needs of applicators in Oregon. In FY 2012, 2,589 private applicators and 4,085 commercial applicators were certified and licensed in Oregon. ODA was instrumental in the implementation of the soil fumigation training in Oregon and the development of the national soil fumigation examination. Moreover, ODA developed and distributed approximately 10,000 brochures related to the soil fumigant label changes.

Oregon OSHA participated in 27 WPS related education and outreach activities for growers and workers in FY 2012. Oregon OSHA also conducted outreach to the Forestry sector and opened up new lines of communication with stakeholders regarding WPS. In FY 2012, Oregon OSHA continued to support the National Institute of Occupational Safety and Health in addressing barriers to personal protective equipment.

During FY 2012, ODA continued to work in cooperation with State and local agencies regarding pesticide management to protect water quality. ODA facilitated the Water Quality Management Team and led the team's effort to designate the FY 2012 Pesticides of Concern for Oregon. ODA conducted outreach and education related to pesticides and water quality issues at training courses and at grower association and applicator meetings. In addition, ODA collaborated with the Oregon Department of Environmental Quality to submit a Policy Option Package for funding to expand Oregon's Pesticide Stewardship Program. This Policy Option Package was included

in the Oregon Governor's 2013-2015 budget and was submitted to the Oregon Legislature for final approval.

The protection of endangered salmon remained a significant interest for Oregon growers in FY 2012, and ODA conducted many activities related to the protection of endangered and threatened species. ODA submitted comments and encouraged stakeholders to submit comments on the draft Biological Opinions issued by the National Marine Fisheries Service. ODA provided information regarding the Endangered Species Protection Program to growers, pesticide users and interested parties through newsletters and at workshops. ODA also participated in numerous meetings and conference calls, to discuss the impacts to threatened and endangered species from applications of aquatic herbicides, allowed by the new National Pollutant Discharge Elimination permits.

I. BACKGROUND

A. General

1. History

In Oregon, EPA Region 10 has cooperative agreements with two state agencies: ODA and Oregon OSHA. ODA has been the state lead agency for pesticide use enforcement, certification and training of pesticide applicators, the water quality protection program, and the endangered species program. Oregon OSHA has been the primary state agency for enforcing the employer-employee aspects of WPS.

Funding of the cooperative agreement with ODA is authorized by FIFRA Section 23. For FY 2012, EPA provided ODA with \$536,469 in federal funds through the cooperative agreement. For FY 2012, EPA did not provide Oregon OSHA with any federal funds. Oregon OSHA receives federal funding directly from the U.S. Department of Labor, Occupational Safety and Health Administration. Thus, Oregon OSHA has an un-funded cooperative agreement with EPA Region 10.

In FY 1994, Oregon OSHA formally adopted, by reference, EPA's Worker Protection Standard for Agricultural Pesticides, 40 C.F.R. Part 170, into its administrative rules at Oregon Administrative Rules (OAR) Chapter 437, Division 81 - Agricultural Operations and Farming. As a result of Oregon OSHA's rule adoption, the enforcement of EPA's WPS is conducted by Oregon OSHA. In FY 2001, EPA Region 10 and Oregon OSHA entered into an unfunded cooperative agreement. This cooperative agreement between EPA and Oregon OSHA creates a direct working relationship between EPA and Oregon OSHA, with respect to the employer-employee aspect of WPS. Moreover, during FY 2001, ODA and Oregon OSHA finalized an interagency agreement that reflected the on-going coordination and implementation of the WPS activities in Oregon.

2. Project Period

The project period for the cooperative agreement with ODA was from July 1, 2011 to June 30, 2012, which was ODA's FY 2012.

The project period for the Oregon OSHA cooperative agreement was from October 1, 2011, to September 30, 2012, which was the same as EPA's FY 2012.

3. Review Methods and Dates

For the ODA, the end-of-year review for FY 2012 was conducted on-site at ODA's Salem office on September 26, 2012.

The end-of-year review for Oregon OSHA was conducted via a telephone conference call on December 17, 2012.

4. Review Participants

On September 26, 2012, EPA Region 10 participated in the end-of-year review of ODA's pesticide programs. Participants from EPA Region 10 at the review were Kelly McFadden, EPA Region 10 Pesticides and Toxics Unit Manager; and Linda Liu, Oregon Project Officer.

The ODA participants at the review were Ray Jaindl, Administrator of ODA's Pesticides and Natural Resources Divisions; Dale Mitchell, Assistant Administrator of ODA's Pesticides Division; Mike Odenthal, ODA's Lead Investigation Coordinator; Sunny Jones, ODA's Compliance Specialist; Rose Kachadoorian, ODA's Registration and Endangered Species Program Specialist; Steve Riley, ODA's Registration and Water Issues Specialist; and Laurie Gordon, ODA's Registration and Certification Specialist.

On December 17, 2012, Kelly McFadden, Derrick Terada, EPA Region 10's Worker Safety Program Coordinator, and Linda Liu participated in the Oregon OSHA end-of-year review.

The Oregon OSHA participants during the December 17, 2012, review were Stanton Thomas, Field Enforcement Manager, and Garnet Cooke, Pesticide Coordinator.

B. Scope of Reviews

This report summarizes the results of the end-of-year review for two cooperative agreements: (1) between EPA and ODA; and (2) between EPA and the Oregon OSHA. Program accomplishments, effectiveness, problem areas, suggestions for improvement, and any resolutions to problems are described in the sections below.

II. FINANCIALS

A. Budget Analysis

The following table summarizes funding and expenditures for the cooperative agreement with ODA:

Work Plan Component	EPA Funding	State Funding	Total Funding	Un-obligated funds
Enforcement	\$339,917	\$1,099,981	\$1,439,898	\$0
Certification	\$110,552	\$350,829	\$461,381	\$0
Programs*	\$61,000	\$49,382	\$110,382	\$0
Integrated Pest Management in Schools	\$25,000	\$0	\$25,000	\$0
TOTAL	\$536,469	\$1,500,192	\$2,036,661	\$0

*Programs included Worker Safety program, Water Quality Program, and Endangered Species Protection Program.

III. COMPLIANCE AND ENFORCEMENT

A. Reports from ODA

1. Pesticide Enforcement Cooperative Agreement Accomplishment Reports, EPA Forms 5700-33H, are attached as Appendix A.
2. Pesticide Enforcement Outcome Measure Reporting Form is attached as Appendix B.
3. ODA's enforcement summary for FY 2012 is attached as Appendix C.
4. The following tables summarize inspection and enforcement activities that ODA reported to EPA.

Inspections Projected and Completed by ODA. This table compares the inspection projections stated in ODA's work plan and the actual accomplishments.

Inspection Type	Inspections Projected	Inspections Completed	Physical Samples Projected	Physical Samples Analyzed
Agricultural (Ag) Use Observations	10	15	0	0
WPS - operator/grower information exchange (OGIE)	0	2	0	0
Soil Fumigant Applications	5	6	0	0
Ag Use Follow-up	15	86	40	191
Non-Ag Use Observations	10	15	0	3
Non-Ag Use Follow-up	15	110	19	135
Experimental Use Permits	1	1	0	0
Producing Establishment	6	6	0	0
Container/Containment	3	3	0	0
Marketplace	15	83	0	0
Import	1	0	0	0
Export	1	0	0	0
Applicator Records	10	63	0	0
OGIE	0	8	0	0
Restricted Use Pesticide Dealer	10	24	0	0
TOTAL	94	403	59	329

ODA exceeded the total number of inspections that were projected for the FY 2012 Cooperative Agreement. Two specific categories of inspection activities were not conducted: import and export inspections. Import and export inspections are dependent on referrals from EPA Region 10 and cannot be accurately projected at the beginning of the year. In FY 2012, ODA did not receive any import or export referrals from EPA Region 10. The number of inspections projected in the Cooperative Agreement is based on the EPA funding available. Using state dedicated funding, ODA conducted 309 more

inspections than projected in the FY 2012 workplan. Furthermore, ODA analyzed 270 more environmental samples using state dedicated funding.

Enforcement Actions reported by the ODA in EPA Form 5700-33H.

Inspection Type	Warnings Issued	Fine Assessed	Civil Complaints	License Actions	SSUROs	Other Actions*
Ag Use Observations	0	0	0	0	0	0
Ag Use Follow-up	32	9	9	1	0	0
Non-Ag Use Observations	0	0	0	0	0	0
Non-ag. Use Follow-up	40	6	6	0	0	0
Experimental Use	0	0	0	0	0	0
Producing Establishment	0	0	0	0	0	6
Marketplace	25	1	1	0	1	28
Import	0	0	0	0	0	0
Export	0	0	0	0	0	0
Applicator Records	33	7	7	0	0	0
Restricted Use Pesticide Dealer	3	2	2	0	0	0
TOTAL	133	25	25	1	1	34

*Other Actions include cases forwarded to EPA for actions

B. Reports from Oregon OSHA

1. Pesticide Enforcement Cooperative Agreement Accomplishment Report, EPA WPS Form 5700-33H, is attached as Appendix D.
2. Oregon OSHA's Pesticide Enforcement Outcome Measure Reporting Form, is attached as Appendix E.
3. Oregon OSHA Pesticide Emphasis Program Annual Report Federal Fiscal Year 2012 is attached as Appendix F.
4. The following tables summarize inspection and enforcement activities that Oregon OSHA reported to EPA on Form 5700-33H.

WPS Inspections Projected and Completed by Oregon OSHA.

Inspection Type	Inspections Completed
Agricultural Use Total	60
Tier I WPS	49
Tier II WPS	11
Agricultural For Cause Total	21
Tier I WPS	19
Tier II WPS	2
TOTAL	81

In FY 2012, Oregon OSHA exceeded the 60 inspections projected and conducted 81 inspections. Of the 81 inspections, 68 were Tier I and 13 were Tier II inspections.

WPS Enforcement Actions reported by Oregon OSHA in EPA WPS Form 5700-3H.

Inspection Type	Formal Actions (Citations) Issued	Cases which had Civil Penalties	Administrative Hearings	Criminal Action	Other Actions (informal advisory letters)
Agricultural Use Observations	8	8	0	0	37
Agricultural For Cause	6	6	0	0	8
TOTAL	14	14	0	0	45

C. Case File and Enforcement Action Evaluation for non-WPS Cases

1. ODA Case Review, Enforcement Action Evaluation, and Significant Cases

EPA Region10 reviewed 26 randomly selected case files. The evaluation of the case files, the enforcement actions, and the significant cases' coordination are summarized in the table below.

#		Yes	Not all the time	Comment
1	Did the grantee conduct thorough inspections?	√		
2	Did the case files include good narrative reports?	√		<p>The narratives were well written and thorough.</p> <p>EPA has the following recommendations for ODA on the narrative reports:</p> <ol style="list-style-type: none"> 1. Develop an SOP to address finalizing the narrative portions of the inspection reports; e.g., if new information is obtained after the narrative portion is completed, ODA will add an addendum to the end of the narrative. 2. Develop an SOP to address finalizing the administrative records; i.e., the investigators cannot edit the narrative after the enforcement action has been issued or the case is finalized. 3. When investigators receive inquiries regarding illegal production, sale or distribution of pesticides, the investigators will ensure that the parties fully understands what is a pesticide and will document such a discussion in the files. If the investigator suspects the party does not understand, he/she should conduct a site visit. 4. If ODA receives any correspondence referring to documents that were not attached to the correspondence, the investigator should describe in the case file that ODA never received such documents.
3	Were the narrative reports written in a timely manner?		√	<p>77% were completed within 90 days of initiations of the inspections. The 90-day time frame is an unwritten goal set by ODA for inspection reports. EPA recognizes that use follow-up inspections may be complicated and that their reports will take much longer to write than other types of inspection reports. EPA recommends that ODA establish a time frame that narratives should be written and a target goal (percentage) of reports that meet this time frame.</p>

#		Yes	Not all the time	Comment
4	Did the inspectors present their federal credentials for Producer Establishment Inspections (PEIs)?	√		ODA conducted six PEIs that required inspectors to present their federal credentials, and ODA presented their credentials for all six PEIs. Currently, there is no Oregon State rule or requirement for ODA inspectors to present their state identifications prior to conducting state inspections. EPA recommends that ODA develop a policy to address presenting identifications at Oregon state inspections.
5	For Dealer Record Inspections (DRIs), did the inspectors review receipts to ensure that only licensed individuals purchased Restricted Use Pesticides (RUPs)?	√		
6	For DRIs or Market Place Inspections, did the inspectors ensure that pesticides are labeled in accordance with laws?	√		
7	For Applicator Records Inspections (ARIs), did the inspectors review application records?	√		
8	For ARIs, did the inspectors check if the applicators were adequately licensed?	√		
9	For Use Follow-up Inspections (UFs), did the inspectors respond to the complaint in a timely manner?	√		
10	If the answer to Question 9 is not “Yes”, did the case file include a rationale for such action?			NA.
11	For Use Inspections, did the inspectors gather adequate application records?	√		
12	During UFs, did the inspectors collect sufficient physical samples?	√		

#		Yes	Not all the time	Comment
13	If physical samples were not collected during UFs, did the case files include the rationale for such actions?	√		
14	Were the laboratory's turn-around times adequate?		√	Based on EPA Region 10's case review, 88% of laboratory samples were completed within 90 days of initiations of the inspections. In three cases that EPA reviewed, ODA's Laboratory took more than four months to generate analytical reports. EPA understands that ODA continues to work on improving the laboratory turn-around time. EPA recommends that ODA establish a time frame that analytical reports be produced.
15	If a use follow-up investigation took a long time to conclude, did the investigator provide the complainant a progress report?		√	Based on EPA Region 10's case review, 96% of the investigations included documentation that the investigators provided progress reports to the complainants. EPA recommends that ODA continues to provide complaints updates when investigation takes a long time to conclude.
16	For inspections, did the inspectors include adequate copies of the product labels in the appropriate case files?	√		
17	For Use Inspections, did the inspectors check if the applicators were adequately licensed?	√		
18	Did the inspectors take adequate photographs?	√		
19	Did the inspectors include maps when appropriate?	√		
20	Did the case files include adequate supporting documents?	√		
21	Did the grantee follow its enforcement response policy?	√		
22	Did the grantee issue timely enforcement actions?		√	Based on EPA Region 10's case review, 96% of the enforcement actions were issued within one year of the initiation dates of the inspections. EPA recognizes that some cases may be complicated and for these complicated cases, issuing timely enforcement actions may be difficult. EPA recommends that ODA continue to strive to issue enforcement actions as quickly as possible.

#		Yes	No	Comment
23	Did the grantee address the problem areas identified by violation trends?	√		
24	Did the grantee adequately coordinate significant cases with EPA?	√		

2. State Recommendations

ODA provided two recommendations to EPA:

- a. ODA requested that EPA provide additional laboratory equipment funding. In previous EPA Region 10 end-of-year review reports, EPA recommended that ODA increase the number of environmental samples obtained during agricultural use follow-up investigations. As previously noted, ODA has significantly increased the number of environmental samples for analysis. In FY 2012, ODA's only Gas Chromatography/Mass Spectrometry (GC/MS) equipment was out of service for several weeks, thus delaying sample analyses scheduled for GC/MS analyses. ODA requested additional EPA funding, to assist with purchasing an additional GC/MS equipment. The utilization of additional equipment will help to increase the laboratory's efficiency and to reduce the sample analysis turn-around time.
- b. ODA would like EPA to develop new performance measures for enforcement. ODA feels that the current measures do not capture the effectiveness of ODA's enforcement program.

D. Compliance Priority – WPS

1. Oregon OSHA Case Review, Enforcement Action Evaluation, and Significant Cases

EPA Region10 reviewed nine WPS cases, eight of which were use cases and one was a use follow-up case. The evaluation of the case files, the enforcement actions issued, and the significant cases' coordination are summarized in the table below:

#		Yes	Not all the time	Comment
1	Did the inspectors conduct thorough inspections?	√		
2	Did the case files include good narrative reports?	√		
3	Were the narrative reports written in a timely manner?	√		
4	Did the inspectors present credentials?	√		
5	For the use follow-up inspections, did the inspectors respond to the complaints in a timely manner?	√		
6	If the answer to Question 8 is not "Yes", did the case file include a rationale for such action?			N/A.

#		Yes	Not all the time	
7	During use follow-up inspections, did the inspectors collect sufficient physical samples?			N/A. In the one follow-up case that EPA reviewed, the complainant filed his complaint many months after the pesticide application.
8	If physical samples were not collected during a follow-up inspection, did the case file include a rationale for such action?			N/A.
9	Did the case files include photographs and adequate copies of the product labels?	√		
10	Did the inspectors include documentation that address central location, safety training, decontamination supplies, notice of application, posting of application, information exchange, and early entry requirements?	√		
11	Did the inspectors address personal protective equipment, mixing and loading and application equipment, emergency assistance, and retaliation?	√		
12	Did the inspectors include documentation of appropriate worker and handler interviews?	√		
13	Were the enforcement actions issued in a timely manner?	√		
14	Was the enforcement response policy followed?	√		
15	Were the problem areas identified by violation trends addressed?	√		
16	Were the significant cases adequately coordinated with EPA?	√		

2. WPS Compliance Analysis

During the inspections conducted in FY 2012, Oregon OSHA identified 166 WPS violations. Of the 166 violations, 56 were related to central posting, 35 were related to personal protective equipment, 32 were related to training, 24 were related to decontamination, and 12 were related to information exchange.

3. State Feedback

None.

E. Inspection and Enforcement Support

1. Training at ODA

To adequately investigate violations of state pesticide laws, a state needs to ensure that state inspection and enforcement personnel are trained in such areas as health and safety,

violation discovery, obtaining consent, sampling procedures, case development procedures, and maintenance of case files. A continuing education program is also crucial so that the State staff can keep abreast of legal developments and technological advances. ODA has four investigators with EPA inspector credentials. These investigators obtain their eight-hour health and safety refreshers online. In addition, ODA investigators also attend grower/applicator meetings to enhance the knowledge of the regulated community. In October 2011, all ODA investigators attended EPA Region 10's Inspectors Workshop in Pasco, Washington. On April 3 and 4, 2012, the ODA investigators participated in the OR-OSHA Annual Pesticide Program Meeting in Salem, Oregon.

2. Training at Oregon OSHA

Each year, all Oregon OSHA compliance officers attend the Annual Pesticide Program Meeting. During these meetings, refresher courses on health and safety and case development are provided. Lessons learned during the past year are also discussed. The Oregon OSHA FY 2012 annual meeting featured speakers from NIOSH's Personal Protective Equipment Technology Laboratory, National Pesticide Information Center, Oregon Health and Science University's Center for Research on Occupational and Environmental Toxicology, Marion County Soil and Water Conservation District, Oregon State University, and ODA.

F. Special Activities Conducted by EPA and ODA

On January 25, 2010, a local interest group, the Pitchfork Rebellion, sent a petition to EPA, requesting that EPA establish pesticide application buffers and investigate pesticide drift from forest applications in the Triangle Lake area in Lane County, Oregon. As a result of this petition, EPA Region 10 has been working on the concerns expressed by the Pitchfork Rebellion. In FY 2012, EPA worked closely with the Oregon Health Authority (OHA) on an Exposure Investigation, explored air monitoring methods and protocols for herbicide detection, and continued to engage with the stakeholders, the forest resource industry, and the community, to hear their perspectives. ODA was also actively assisting OHA on the Exposure Investigation by coordinating meetings and conference calls and requesting application records from applicators and operators in the area.

G. New Legislation and Regulations

The 2009 Oregon Integrated Pest Management (IPM) in Schools Law became effective on July 1, 2012. The law requires schools to have designated IPM coordinators and to notify staff, students, and parents of intended pesticide applications. Any school employee making the application of any pesticide on school property is to be licensed by ODA. Moreover, Oregon State University was to develop model IPM plans and to make those plans available to schools.

During FY 2012, ODA conducted administrative rulemaking to streamline and update language in Oregon Revised Statute 603, Division 67, and to add authority to strengthen enforcement action for pesticide drift onto schools. The administrative rule process addressed

pesticide registration fees, General Standards of Pesticide Applicator Competency, Private Applicator Standards and Competency, Alternative Requirements for Competency of Pesticide Applicator or Consultant Licensing Renewal, Definitions, and Civil Penalties: Magnitude of Violation and Gravity of Effect.

H. Action Items from FY 2011 End-of-Year Reviews

In FY 2011, EPA Region 10 made four recommendations to ODA's enforcement program, and ODA addressed them as follows:

1. EPA Recommendation: Continue to evaluate ODA's resources needs to address the issue of case load and limited resources.

ODA Action: ODA addressed this recommendation. Two of ODA's investigators positions are limited duration positions. In FY 2012, ODA requested the Oregon Legislature to convert these two positions to permanent position.

2. EPA Recommendation: Continue to improve the turn-around time for analytical results at the ODA Laboratory.

ODA Action: ODA attempted to address this recommendation. The turn-around time at the ODA Laboratory has been an issue for many years. ODA's Directors Office even established a workgroup in FY 2011 to look at workload distribution and to streamline procedures at the ODA Laboratory. Starting in FY 2012, ODA Laboratory's staffs have been invited to participate in ODA investigators' staff monthly meetings. ODA realized that the turn-around time for analytical results can be improved with better communication with the laboratory staff.

3. EPA Recommendation: Notify EPA Region 10 and request for approval when substituting an inspection for another inspection or other work; e.g., compliance assistance.

ODA Action: ODA addressed this recommendation and indicated that before ODA makes a substitution, EPA Region 10 would be notified. ODA did not substitute any inspections for compliance assistance workshops in FY 2012 though.

4. EPA Recommendation: Notify the EPA Region 10 Pesticides Program Project Officer immediately upon learning of a significant incident.

ODA Action: ODA addressed this recommendation. EPA Region 10 was notified of significant incidents on the same day or at the latest, within a couple of days, after ODA learned of the incidents. In addition, ODA and EPA Region 10 set up a monthly conference call system to discuss significant cases every month.

There was no action item from the previous Oregon OSHA end-of-year review.

I. Conclusions and Recommendations for Compliance/Enforcement

1. ODA

ODA has a solid enforcement program. In FY 2012, ODA significantly improved its pesticide enforcement program by implementing new policies and procedures to address EPA's recommendations during EPA's 2010 and 2011 end-of-year reviews. ODA updated its Investigator Manual and Sampling Guide and used its new standardized procedures for documentation and sample collection. EPA found that inspections conducted were thorough, and the enforcement actions issued were consistent with the enforcement response policy. EPA continues to be impressed by the number of samples collected and analyzed by ODA. The Department continued to exceed the number of inspections that it projected at the beginning of the year. Utilizing state dedicated funding, ODA conducted 309 more inspections than projected in the FY 2012 work plan. Furthermore, ODA analyzed 270 more environmental samples, utilizing state dedicated funding.

EPA Region 10 has the following recommendations for ODA's enforcement program:

- a. Develop a Standard Operating Procedure (SOP) to address finalizing the narrative portions of the inspection reports and the administrative records;
- b. When investigators receive inquiries regarding illegal production, sale or distribution of pesticides, ensure that the parties fully understand what is a pesticide and document such a discussion in the files;
- c. Describe in the case file if any documents referred to in any correspondence were not received.
- d. Establish a time frame that the narrative reports should be written and a goal (percentage) of reports that meet this time frame;
- e. Develop a policy to address presenting identifications at Oregon state inspections;
- f. Establish a time frame that analytical reports be produced;
- g. Continue to provide complaints updates when investigation takes a long time to conclude;
- h. Continue to strive to issue enforcement actions as quickly as possible.

2. Oregon OSHA

Oregon OSHA continues to implement an excellent WPS enforcement program. In FY 2012, Oregon OSHA exceeded the projected number of inspections. Compliance officers conducted thorough and well-documented inspections. Checklists were used

during interviews with handlers and workers, and Letters of Corrective Action were used to ensure that violators came back into compliance. Furthermore, the enforcement actions issued were timely and consistent with the enforcement response policy.

EPA does not have any recommendation for Oregon OSHA's enforcement program.

IV. PROGRAMS

A. Worker Safety

1. Certification and Training (C&T) of Pesticide Applicators by ODA

a. Previous Recommendations

None.

b. Accomplishments

ODA met all the C&T program activities projected in the FY 2012 workplan. A detailed description of ODA's C&T program activities can be found in Appendix G. ODA's major accomplishments in FY 2012 are listed below:

- (1) A total of 4,598 private applicators and 4,927 commercial applicators were certified and licensed in Oregon;
- (2) ODA staff audited 12 of the 20 testing centers to ensure all examinations are accounted for and to ensure all security agreements are current;
- (3) ODA evaluated recertification courses for applicators and consultants. ODA audited 53 training classes for quality and content and accredited 1,079 continuing education classes;
- (4) ODA was instrumental in the design and implementation of the soil fumigant training sessions and the development of a regional fumigant examination. ODA developed and distributed approximately 10,000 brochures related to the soil fumigant label changes;
- (5) ODA participated as presenters in 115 recertification training sessions;
- (6) ODA was active in the State FIFRA Issues Research and Evaluation Group (SFIREG) and the Association of American Pesticide Control Officials (AAPCO). In FY 2012, ODA staff represented Region 10 states at SFIREG's Pesticide Operations and Management Committee and at the SFIREG Environmental Quality Issues Committee; and

- (7) ODA participated in numerous discussions with the Oregon Department of Environmental Quality (DEQ) on the scope of the National Pollutant Discharge Elimination System permits for aquatic herbicides applications and provided outreach to many pesticide user groups regarding these permits.

c. *State Feedback*

ODA would like to be better informed of EPA's tribal C&T activities, so ODA can fully evaluate their impacts to ODA's C&T program.

d. *EPA Recommendations*

None.

2. Worker Protection Program by Oregon OSHA

a. *Previous Recommendations*

None.

b. *Accomplishments*

In FY 2012, Oregon OSHA conducted many education and outreach activities related to WPS. For more details, see Oregon OSHA Pesticide Emphasis Program Annual Report Federal Fiscal Year 2012 (Appendix F). Oregon OSHA has the following major accomplishments in FY 2012:

- (1) Participation in 27 agricultural classes and workshops;
- (2) Partnership with the National Institute for Occupational Safety and Health on the "Barriers to Personal Protective Equipment for Pesticide Handlers" project;.
- (3) Outreach to the organic growers through Oregon Tilth, to increase awareness that the non-conventional pesticides which organic growers use could be regulated by EPA and the State agencies;
- (4) Training to Oregon OSHA staff and an interview with the Capital Press regarding aluminum phosphide and its hazards; and
- (5) Outreach to Oregon's Forestry stakeholders regarding WPS.

c. *State Feedback*

None.

d. *EPA Recommendations*

None.

B. Water Quality Program

1. Previous Recommendations

None.

2. Accomplishments

ODA met the Water Quality Program commitments in the FY 2012 workplan. A detailed description of ODA's accomplishments can be found in Appendix H.

Since FY 2008, the Oregon Water Quality Pesticide Management Team (WQPMT) has been coordinating monitoring and other activities to improve water quality related to pesticides. Team members consist of representatives from ODA, Oregon DEQ, OHA, and Oregon Department of Forestry. In FY 2012, WQPMT worked with the U.S. Geological Survey, various county Soil and Water Conservation Districts, and local watershed councils on water quality issues.

In FY 2012, ODA was an active member of the Oregon WQPMT, and ODA worked with Oregon's Pesticide Stewardship Partnerships Program to identify local, pesticide related water quality issues and to implement solutions. ODA facilitated the WQPMT and led the team's effort to designate the FY 2012 Pesticides of Concern for Oregon.

ODA evaluated available monitoring data, identified Pesticides of Interest and Pesticides of Concern, and managed Pesticides of Concern. In FY 2012, ODA had 73 active ingredients listed as Pesticides of Interest (16 were added to the original list of 57), nine active ingredients listed as Pesticides of Concern, nine active ingredients under active management, and two active ingredients (azinphos methyl and chlorpyrifos) under active management with demonstrated progress. A summary of ODA's pesticide-specific and program management activities can be found in EPA's Pesticides of Interest Tracking System (POINTS) database at <http://www.points.wsu.edu/reports/fullReport.aspx>.

ODA conducted outreach and education related to pesticides and water quality issues at training courses and at grower associations and applicator meetings. In ODA's presentations at these events, information on the risk factors associated with pesticide use were discussed. ODA showed examples of existing pesticide label language that demonstrates how risk factors are communicated and mitigated. Mitigation measures may include buffers or restrictions on soil type or climatic conditions.

ODA's Agricultural Water Quality Management Program also included pesticide related issues in the Agricultural Water Quality Plans. These plans are outreach documents to local communities.

In a significant development: ODA collaborated with Oregon DEQ in Spring/Summer 2012 on a Policy Option Package for funding to expand the Pesticide Stewardship Partnerships Program. In December 2012, this Policy Option Package was included in the Oregon Governor's 2013-2015 budget and was submitted to the Oregon Legislature for final approval.

3. State Feedback

ODA has three suggestions for EPA:

- a. Update EPA's list of 57 pesticides of interest to include active ingredients that pose high risk to aquatic organisms that are coming into the market;
- b. Provide more funding to the state's water quality program; and
- c. Have a consistent re-registration process so ODA can easily inform pesticide users of upcoming label changes.

4. EPA Recommendations

None.

C. Endangered Species Protection Program

1. Previous Recommendations

None.

2. Accomplishments

In FY 2012, ODA met the Endangered Species Protection Program (ESPP) commitments in the workplan. A detailed description of the ODA's ESPP can be found in Appendix I. The OPP Field Program for Endangered Species Data Collection Sheet for FY 2012 End-of-Year Report is attached in Appendix J. Major accomplishments in FY 2012 are listed below:

- a. ODA reviewed and submitted comments on the Reasonable and Prudent Alternatives (RPAs) and Reasonable and Prudent Measures (PRMs) included in the draft Biological Opinions (BiOps) issued by the National Marine Fisheries Service (NMFS). In these BiOps, NMFS described the impacts to Pacific salmonids from applications of pesticides containing the following active ingredients: oryzalin, pendimethalin, and trifluralin.
- b. ODA reviewed and submitted comments on the draft BiOps issued by NMFS related to the National Discharge Elimination System Pesticides General Permits for aquatic herbicides.

- c. ODA informed growers and other pesticide users of the opportunity to comment on NMFS' draft BiOps;
- d. ODA provided outreach and education to pesticide applicators. ODA staff provided information related to the protection of threatened and endangered species at approximately 20 training classes;
- e. ODA continued to work with the U.S. Fish and Wildlife Service (F&W), NMFS, and Oregon Department of Fish and Wildlife on registrations issued for emergency exemptions (FIFRA Section 18) and special local needs (FIFRA Section 24(c));
- f. In FY 2012, ODA updated county maps on the website for a few pesticide active ingredients (1,3-D, Bromoxynil, Diffubenzuron, Fenbutatin-oxide, Lindane, Prometryn, and Progarite) yet to be reviewed by NMFS. NMFS will review the impacts of these active ingredients in the next BiOp, to be issued in Spring 2013.

3. State Feedback

ODA provided three recommendations to EPA:

- a. Distinguish the difference between native species and endangered species when working on pesticide label language. Many current labels include language to protect native species. ODA can obtain a list of endangered species from NOAA Fisheries and U.S. F&W, but obtaining a list of native species is more difficult;
- b. Include buffer zone information on the pesticide label. Instead of going to a computer to calculate a buffer zone, ODA indicated that growers do not want to use a computer to find buffer zone information; and
- c. Be consistent when referring to a buffer zone. Some labels include the word "buffer", while others have "no spray zone".

4. EPA Recommendations

None.

D. Integrated Pest Management (IPM) in Schools Contract with OSU

1. Previous Recommendations

None.

2. Accomplishments

In FY 2012, ODA contracted with the OSU - Extension Service to perform activities related to Integrated Pest Management (IPM) in Schools. \$25,000 was provided to OSU from ODA for this work.

OSU developed an IPM in Schools pamphlet, made copies of this pamphlet, and distributed them to Oregon's 1,295 public K-12 schools and over 300 private K-12 schools. OSU also conducted an IPM in Schools workshop at the Oregon School Facilities Management Association's annual conference. In addition, OSU conducted a webinar and posted it on the Oregon School Nurses Association's website at <http://orschoolnurse.org/flyers/bulletinboard/webinar.shtml>. Please see Appendix K attached for the complete details related to this OSU IPM in Schools project.

3. State Feedback

None.

4. EPA Recommendations

None.